

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS

July 2, 2012

Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Lynda McGuire, Secretary, called the roll of the Board of Zoning Appeals. Present members were Ron Siciliano, Jack Wesseler, Don Carpenter, Chad Oberson, Joseph Koczeniak and Scott Lepsky. Rick Helsinger, Building Official and John Clemmons, Law Director were also present. Motion to excuse Debbie Pennington carried 6-0.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on June 6, 2012 were approved. Motion carried 6-0.

Old Business

Scott Lepsky, seconded by Don Carpenter, made a motion to remove the case from the table. Motion carried 6-0.

Case No. BZA-12-0020 - Promotional Advertising using feather flags and air dancer – 6400 Dixie Hwy:

The Fairfield Golf Center is requesting a variance to use feather flags and an air dancer on their property for promotional advertising.

STR commented that the air dancers should be reserved for grand openings only.

Comments from Planning Commission regarding these promotional items are as follows:

- Air Dancers – air dancers should be permitted only during a 60 day grand opening event. For these devices to be effective, they need a power source. There was concern about extension cords being draped across parking lots and possible safety issues. This should be reviewed by an inspector if these are used. Finally, there was concern about set back of these devices from the road right-of-way. Because of their length and the potential for getting caught in street signs, utility poles etc., placing these an appropriate distance from the right-of-way (approximately 25') was suggested.
- Feather Flags - feather flags were viewed by the Commission and determined to be an acceptable promotional and grand opening device and should be treated in a similar fashion as “special event signs” and ‘banners’. The thought was to allow these flags so that an applicant could have 25-30 sq. feet of flags since this is the sq. footage permitted for other similar promotional devices. They should be subject to all the requirements for promotional signage as stated in 1187.03 (i). The only concern was that the flags need to be anchored securely and be placed out of the right-of-way. The Commission discussed trying to regulate by linear feet or by content and it was decided not to advance those particular ideas due to the administrative/enforcement issues associated with such applications.

Property Owner's Comments

Rob Amodio spoke regarding the variance. He distributed pictures to the board of various promotional signage from around the city. Mr. Oberson was not at the June meeting, so there was discussion regarding Planning Commission's involvement in this case. Mr. Siciliano agrees there is a hardship due to construction. The currently closed turn lane in front of the business will be re-opened after the construction is completed. Mr. Kozceniak said he drove the route several times and doesn't think the signs are that noticeable. They blend in to the surroundings. Mr. Amodio said the business has gotten a lot of feedback regarding the signs; people notice them. There was discussion regarding a more permanent solution. The air dancer is not intended to be permanent, and the flags are seasonal; they want to leave them up through September. Mr. Siciliano feels their current permanent sign is outdated, they could install a newer, nicer one, and that would be more of a permanent solution to their problem. Mr. Amodio said the expense for the sign may be too much. There was discussion on where the air dancer is plugged in. The electric is at the batting cage area; it is an "employee only" area that is fenced and has no foot traffic. Mr. Oberson feels that the items are not unsightly. He sees the hardship and all of the green space that they have on that property helps their case. Mr. Amodio didn't want the items to "jump out" at people too much. He wanted them to look clean and professional. Mr. Lepsky stated he is worried about the safety aspect of the air dancers, because of the electrical cords. He also does not want to set precedent with them and have Fairfield look like Colerain Ave., with air dancers lining the streets. Mr. Koczeniak agrees, and would like to see them come up with a more permanent solution to the problem. Mr. Helsinger explained the temporary sign permit requirements and how the flutter flags would fit in with them. Mr. Oberson sees a true hardship here, and wants to see the business improve. The promotional items are not unsightly. There are rules, but that is why the Board of Zoning Appeals exists. Everything should be looked at case by case. They were severely impacted by the construction, and letting them use the promotional items is better than the business being vacant. Permanent signs are very expensive.

Ron Siciliano asked if anyone knew the timeline for the construction. Mr. Bachman indicated that he understood it would be the end of July. Mr. Siciliano said he would be ok with a variance to allow the air dancers until the end of construction. He would like to treat the flags as a separate issue. Mr. Carpenter indicated that it appeared that the business had "sunk" with the buildup of the road with the construction. Mr. Amodio agreed there is a line of sight issue; there is no reason to slow down anymore, and it's hard to get out of the parking lot. The used car lot next door parks cars in the right of way which also blocks the sight of the entrance. Mr. Lepsky indicated that although the 5 flags exceeded what Planning Commission's vision was, he would be ok with the flags for this season. Next year he would like to see a more long term solution. He can't support the air dancer. Mr. Siciliano sees the hardship; the bypass is too confusing. He is ok with the flags. He doesn't like the air dancer, but he could agree to something short term.

Public Hearing

None

Board Re-Convened

Chad Oberson, seconded by Don Carpenter, made a motion to allow 5 flutter flags and one air dancer to remain on the property until October 1, 2012. Motion carried 6-0.

Case No. BZA-12-0022– Outdoor seating – 4737 Dixie Hwy.:

Case was tabled from the June 2012 meeting. The case remains tabled until the August 1, 2012 meeting.

New Business

Case No. BZA-12-0024 – Accessory Building less than 6 feet from property line and house - 6085 Happy Valley Ct.:

Karen Forrester is requesting a variance to place a shed closer than 6 feet from the house and property line.

STR had no comment on this case.

Property Owner's Comments

Ms. Forrester spoke regarding the variance. She needed more storage, since they will be installing a pool next year. She didn't think she needed permits, since the shed was so small. The neighbor's shed is close to the house, as well as others in the neighborhood. There is also a large easement that runs through the yard, which limits the space. The shed is of standard height. There was discussion on the reason for the distance requirement from the house. The shed can be a fire hazard when too close to the house, because of what can be stored in them. Ms. Forrester told the board that the contractor was in the middle of installing the shed. It is concreted 2 feet in the ground. Mr. Wessler sees no hardship in this case. The contractor should have checked if permits were required before he started the work. Ms. Forrester said an easement runs through most of the yard, that's why they put the shed where it is at. It will match the house. Mr. Siciliano said he is not sure that there's a hardship simply because it's already been constructed. Mr. Oberson said there wasn't much of a variance needed.

Public Hearing

None

Board Re-Convened

Scott Lepsky, seconded by Chad Oberson, made a motion to approve the variance as submitted. Motion carried 6-0.

Case No. BZA-12-0025 – Accessory structures exceed 35% - 4775 Bradley Dr.:

Mike Turco is requesting a variance to exceed the 35% rear yard requirement for accessory structures.

STR had no comment on this case.

Property Owner's Comments

Mr. Turco spoke regarding the variance. He has lived in this house for 25 years, and recently had an inground pool installed. He would like to build a 220 sq ft pool house, which will house the filtration system for the pool, as well as the pool furniture. He would also like to provide privacy in the pool area with the shed. It will act as a noise barrier. Mr. Siciliano asked if the new pool was included in the square footage calculations. The pool, deck and existing shed are included in the calculation, the proposed patio cover is not figured into the total. Mr. Siciliano said some members don't look at inground pools as structures. Mr. Oberson agreed, and said he thought the same for decks. Concrete decks are not included. Mr. Turco indicated that the filter for the new pool was in the middle of the yard; it stands out. Mr. Oberson suggested removing the existing 16' x 16' shed. Mr. Turco said he needs the space that both sheds will give him. Mr. Helsing told the board a letter had been sent opposing the variance.

Public Hearing

Jesse French, Contractor, spoke regarding the variance. He is the contractor for the shed. He stated that the water will stay in the pool, and the pool shouldn't be counted towards the green space. Mr. Clemmons clarified that the 35% requirement is to avoid clutter in the yard in Fairfield. It is not a drainage issue, like some cities view it. Mr. Lepsky pointed out that just the existing shed and deck bring his total square footage to 736 sq ft; 51 feet away from the total allowable. That does not include the pool. Mr. Siciliano is leaning towards having the homeowner remove the existing shed and maybe allow a bigger new shed. Offsite storage is also an idea. Mr. Turco said he wants to keep his patio furniture, mowers, and other things out of the back yard, that's why he wants the shed. He needs both structures. He has applied for the permit and has good intentions. The current shed has been there since 2006, and he only has a one car garage. Mr. Lepsky feels

the filter doesn't need housed and landscaping could be done for a noise barrier. It doesn't make sense for the property in that neighborhood.

Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to deny the variance. Motion carried 5-1, Don Carpenter dissenting.

Case No. BZA-12-0026 – Variable Message Reader Board in R-1 Zone – 4601 Fairfield Ave.:

Paul Koehneke, for St. Mark's United Methodist Church, is requesting a variance to construct a Variable Message Reader Board in an R-1 zone.

STR recommends that if approved, the same conditions apply as the Rolling Hills variance. Some of those conditions were a 7 second delay between messages, auto dim in the evening, manual setting and one color text.

Property Owner's Comments

Paul Koehneke from Sign A Rama spoke regarding the variance. The proposed sign will have amber monochrome text, is double faced, and has 4 lines of text. It is the exact same sign as Rolling Hills Church constructed and will be constructed in the same spot as the existing sign. Two representatives from St. Mark's also spoke regarding the variance. The existing sign is 50 years old and is decaying and falling apart. The brick on the existing sign will be cleaned and will stay, and the new sign will be tastefully done. Mr. Siciliano thinks the new sign is attractive, and of low impact to the property. Mr. Oberson noted that this area is more residential than Rolling Hills, and thinks the sign will be seen by more people.

Public Hearing

None

Board Re-Convened

Don Carpenter, seconded by Scott Lepsky, made a motion to approve the variance with the following conditions: The sign requires a seven second delay, must have an auto dim feature, one color text and must be password controlled. Motion carried 6-0.

Case No. BZA-12-0027 – Accessory Building less than 6 feet from property line, Variance on driveway to Accessory Building; door exceeds 6' in width – 5559 Lakeside Dr.:

D. Schultz is requesting a variance to place an accessory building 3 feet from the property line. The building shows 9 foot wide doors on the plan and no paving is shown on the submitted site plan.

STR wanted to clarify that the easement shown on the drawing does not exist. They had concerns regarding anchoring of the shed and that the shed does not comply with the deed restrictions on the property. There was a phone call to the Building Division opposing the variance.

Property Owner's Comments

Mr. Schultz spoke regarding the variance. He handed out packets to the board, detailing the proposed shed. He would like the two variances to be looked at separately; as another door is available that is less than 6 feet wide. Regarding the distance to property line variance, his house is set back further off the road than most of the houses surrounding his. This gives him less of a rear yard, and he would like to make optimal use of the space. The lot is also an irregular shape. The back of the shed will be 8 to 10 feet from the property line, because of the way the shed will be positioned. The rear corners will be 3 feet away from the property line. He only has a 2 car garage, and can't add on to it because of the side yard setback. The shed is good quality, will add value to the property and the colors will match the house and deck. He plans to landscape around it, but if he has to place it 6 feet from the property line, he will not landscape around it. There are already other sheds close to the property line nearby; precedent is already set. He moved his fence inside the property line

6” to accommodate those other sheds. Mr. Carpenter asked if he planned on parking a car in the proposed shed. He has an antique truck that is rarely used, but is selling it. He will not be using the shed for storing a vehicle. In fact, he can get regular shed doors that are 4.5 feet wide if necessary. Mr. Siciliano referenced the earlier variance for distance to property line, and the main reason he approved that one was due to the large easement that runs through the property. The sheds that surround his that are too close to the property line must have been too small to need permits. Mr. Schultz said he was not aware of the deed restrictions on sheds until last week. He provided the board with a list of permits that don’t comply with the restrictions in his neighborhood. Mr. Helsinger read a section of the deed restrictions requirements; but noted that there is a disclosure on the permits referencing deed restrictions; they are not enforced by the city. Mr. Carpenter asked how the shed was to be anchored. Mr. Schultz was told that a platform was required, with 4 x 4 posts in the corners, and a plywood floor. He is willing to concrete the base. The walls are 1” thick PVC vinyl resin, which comes in multiple pieces, then pieced together. He will reinforce the shed with an interior stud wall. There are no shingles; the entire shed is made from PVC. Mr. Siciliano doesn’t think the placement is an optimal use of space. Parallel placement seems to make the most sense. Mr. Schultz said he liked the ease of access to the deck, house and gate and prefers this location. He asked to amend his variance to shrink the doors to 4.5 feet wide. Mr. Oberson feels that it looks like a Rubbermaid shed, is not aesthetically pleasing and looks temporary. The neighbors will not want to look at the shed. He feels the wooden barns are sturdier. Mr. Siciliano asked about material requirements for sheds. The only restriction is that it not be made of metal if over 150 sq ft. There was discussion regarding deed restrictions. If the board approved the variance, could anyone come back and sue them? Mr. Clemmons clarified that the city has no liability in this case; it is a private issue. Mr. Schultz said he likes Rubbermaid material; it is maintenance free, UV protected and has a 10 year warranty. They are durable and strong. He had a wooden shed and it didn’t hold up.

Public Hearing

Dale Beckman, 5551 Lakeside Dr. spoke regarding the variance. He said the shed is unsightly and he doesn’t want to look at it. He disagrees that it will add value.

Diana Reeb, 5913 Heritage Knoll Terrace spoke regarding the variance. Her property abuts this one. The fence is not inside the property line. They made an agreement with the applicant’s father about the fence; technically the fence is inside HER property line. She thinks he has ample space in the yard without encroaching into the 6ft setback requirement. She would be looking at the back of a plastic shed. It seems strange to her to have such a small door on such a big shed. There was discussion on why the shed was to be placed at an angle. Mr. Wessler said the only concern he had was the location. If he placed the shed at 6 feet from the property line, no variance would be required. Mr. Helsinger offered options on anchoring and informed everyone that the building code requires a 90 MPH wind load on sheds. There is a slight hill where he plans to build the shed; that is why he is placing it at an angle. Mr. Schultz said he does not plan to store combustible items in the shed. He disagrees that the fence is inside the neighbor’s property line. Mr. Helsinger stated that property line disputes are between the two parties; the city does not get involved. Mr. Schultz feels the code is vague on the accessory parking/paving requirement. Mr. Clemmons said both issues need not be present; it’s one or the other. There was discussion on placing the shed on the other side of the yard. The sump pump drain is there, so he can’t place the shed there. Mr. Lepsky sees no hardship in this case; if he brought it in 6’ he would not need a variance. Mr. Lepsky suggested he open a dialogue with the neighbors, to try and make everyone happy.

Board Re-Convened

Jack Wessler, seconded by Scott Lepsky, made a motion to deny both variances. Motion carried 5-1, Joseph Koszsceniak dissenting.

Case No. BZA-12-0028 – Proposed signs exceed allowable – 3000 Mack Rd.:

Mercy Health Partners are requesting variances for signage on the property. The three variances are as follows: Variance 1) Sections 1187.07 (a)(6) & (8) of the zoning code allows 2 ground signs at this location. The applicant is requesting a variance to construct a total of 4 ground signs. Variance 2) Sections 1187.03 (e) & 1187.07 (a)(6) allows directional signs at 3 sq ft each, not to exceed 8 feet in height. The proposed directional signs are 33 sq ft each and 12 feet in height. Variance 3) Section 1187.07 (a)(4) of the zoning

code states "...a sign greater than fifty square feet in area may be permitted provided...that its area does not exceed ten percent (10%) of the area of the building face upon which it is located." The total allowable sign size is 192 sq ft. The proposed sign is 751 sq ft.

STR recommendations are as follows:

1. The various ground signs at the entrances are being designed to clarify various access points for the large number of visitors and clients that use the hospital. Given the complexity of the campus, STR feels these are appropriate.
2. The variance as calculated for the large wall sign is 559 s.f. In reality, the sign background, which is the roof parapet, will not change. The word "Mercy" will be replaced with "Mercy Health" and a logo.

Property Owner's Comments

A representative from TriVersity, the designer, and the COO for Mercy Hospital were in attendance for the meeting. Mercy is a large campus, there are two entrances, and both signs will be replaced. The sign on the penthouse will not extend above the building and will not be internally lit. The parapet is not changing. Directional signs will be replaced, and there will be a digital sign at the opening of the parking garage that will switch messages at night, to direct people to the correct location. Various slides were shown, detailing the various signs that are being replaced and their location. Mr. Siciliano said his initial thought was that with it being a hospital, the whole community would benefit. The lot can be a busy, confusing place with emergency vehicles and anxious people.

Public Hearing

None

Board Re-Convened

Chad Oberson, seconded by Scott Lepsky, made a motion to approve the three variances as submitted. Motion carried 6-0.

Other Business

A resident from Morningside Dr questioned the board about their decision on the variance at 6085 Happy Valley Ct. The variance should not have been approved. The contractor should have checked with the building department before construction. Why did they approve it? Mr. Lepsky said his decision was based on the rear yard easement. Mr. Siciliano said no one spoke against the case.

Mr. Oberson asked Mr. Bachman if the plastic sheds could be regulated like the metal sheds; not permitted if they are if they are over 150 sq ft. Mr. Bachman said it was an issue that could be brought to City Council. Mr. Carpenter said it was a safety issue for him.

Chad Oberson made a motion to bring the issue of shed material restrictions to Council. He proposed no plastic or resin structures be permitted if they are over 50 sq ft. Jack Wessler seconded the motion. Motion carried 5-1, Scott Lepsky dissenting.

Adjournment:

Don Carpenter, seconded by Scott Lepsky, made a motion to adjourn. Motion carried 6-0.

Ron Siciliano, Chairman

Lynda McGuire, Secretary